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EXAMINER

HURLEY, SHAUN R

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 07/16/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/022,822

Applicant(s)

ANDEREGG, PETER

Examiner

Shaun R Hurley

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3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 15-23 is/are rejected.
- 7) ☒ Claim(s) 24-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Switzerland on 22 December 2000. It is noted, however, that applicant has not filed a certified copy of the 2516/00 application as required by 35 U.S.C. 119(b).

### ***Drawings***

2. Figures 1, 1a, 1b, 1c, 2, 2a, 2b, 2c, 3, 3a, and 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because numerous detail numbers present in the drawings are not disclosed in the specification. Likewise, there are details which are not present in the drawings but which are described in the specification. In regards to the figures of prior art, Applicant has numerous overlapping numbers appearing in not only multiple prior art figures, but also in his present drawings. One of ordinary skill in the art would not be capable of deciphering what is present in the drawings as taught by the specification.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feeding of in at least two different fiber bundles having different fibers lengths at the fiber delivery point and conveying them separately must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

**A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.**

***Specification***

5. The disclosure is objected to because of the following informalities:

What is the difference between “Detailed Description” and “Description of the Invention” in Applicant’s headings? Further, on page 8, line 14, “which ,” should read --which,-- and on page 11, line 1, “45” should read --46--. Appropriate correction is required.

***Claim Objections***

6. Claim 15 is objected to because of the following informalities: in line 4, “an intake mouth a yarn” reads poorly. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 17, 19, 20, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claim 17, it is unclear what Applicant is attempting to claim. Is Applicant stating that one type of fiber is conveyed through one conveying channel, and another type of fiber is conveyed through the other channel, or, that a blend of different fibers is passed through both channels?

In regards to claims 19-21, it is unclear what Applicant is attempting to claim. Claim 15 teaches that one bundle is utilized, yet claim 19 teaches that two are used. Which is it? If the independent claim teaches one bundle, then two cannot be utilized in the dependent claim. Further, if the two are intended to compose the one, Applicant has not disclosed how the short and long fibers can be kept from intermingling since they would be drafted together prior to splitting, assuring that one channel could not receive only short or long fibers.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 15-18, 22, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Document (07173727).

The Japanese Document '727 teaches a method of spinning a yarn from a fiber bundle (Abstract) comprising conveying individual fibers from the fiber bundle (S) at a fiber bundling point at a spindle yarn channel (42), subjecting the conveyed fibers to a rotating air stream at the intake mouth of the spindle yarn channel, dividing the fibers conveyed to the spindle into at least two fibers streams (fa, fb) through at least two separate conveying channels (5a, 5b), and incorporating the fibers into the fiber bundling point at different times by varying the impingement angle of the fibers with respect to an axial line of the yarn channel (5a follows a straighter line than 5b), as well as the apparatus used to perform such a method (Figures 1 and 2). In regards to claims 17 and 18, a fiber bundle (sliver) will inherently contain different

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combinations of long and short staple fibers, since all staple length fibers are not identical in length, such as virgin cotton.

### ***Double Patenting***

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

12. Claim 22 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 (now 16 as presented in the preamendment) of copending Application No. 10/022811. Although the conflicting claims are not identical, they are not patentably distinct from each other because both teach an apparatus comprising at least two different fiber-conveying channels disposed between a delivery point and a bundling point which are configured differently.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Allowable Subject Matter***

13. Claims 24-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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14. Claims 29 and 30 are allowed.

15. The following is a statement of reasons for the indication of allowable subject matter:

Claim 29 and its dependent claim are found to be allowable because the prior art of record neither teaches nor reasonably suggests the recitations found therein including a driven tension roller having a longitudinal segment with a reduced diameter adjacent a longitudinal segment with an increased diameter.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Japanese Document (06073617), Japanese Document (05044117), Okamoto (5295349), and Mori (5193335) all teach what is well known in the yarn spinning art.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun R Hurley whose telephone number is (703) 605-1236. The examiner can normally be reached on Mon - Fri, 7:00am - 4:00pm, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J Calvert can be reached on (703) 305-1025. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-085.

SRH  
July 3, 2003

  
JOHN J. CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700